

Assembly Journal

Ninety-Fourth Regular Session

THURSDAY, May 18, 2000

The Chief Clerk makes the following entries under the above date:

EXECUTIVE COMMUNICATIONS

State of Wisconsin Office of the Governor Madison

May 17, 2000

To the Honorable Members of the Assembly:

The following bills, originating in the Assembly, have been approved, signed and deposited in the office of the Secretary of State:

Bill Number	Act Number	Date Approved
AB 471 (partial veto)	177	May 17, 2000
Assembly Bill 561	178	May 17, 2000
Assembly Bill 137	179	May 17, 2000
	180	
Assembly Bill 700	182	May 17, 2000
Assembly Bill 742	183	May 17, 2000
	184	
	185	
Assembly Bill 969	186	May 17, 2000
	187	
Assembly Bill 402	189	May 17, 2000
Assembly Bill 504	190	May 17, 2000
Assembly Bill 538	191	May 17, 2000
Assembly Bill 778	192	May 17, 2000
Assembly Bill 841	193	May 17, 2000
Assembly Bill 860	194	May 17, 2000
AB 796 (partial veto)	197	May 18, 2000

Respectfully submitted, TOMMY G. THOMPSON Governor

GOVERNOR'S VETO MESSAGES

May 17, 2000

To the Honorable Members of the Assembly:

I have approved **Assembly Bill 471** as 1999 Wisconsin Act 177 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Sections 1 and 2.

Assembly Bill 471 creates a small business employe training grant program within the Department of Commerce. An applicant under the program may receive up to \$10,000 in grants. Grant proceeds may be used for employe skills training and other education related to the needs of the business.

Sections 1 and 2 authorize the payment of small business employe training grants from the existing Wisconsin Development Fund appropriation. That appropriation currently funds nearly a dozen state economic development grant and loan programs. I am vetoing Section 1 and partially vetoing Section 2 to remove the reference to the Wisconsin Development Fund appropriation because adding a program of this magnitude will unacceptably dilute funding available for economic development and job creation in Wisconsin.

I remain steadfast in my support for small business growth and development and request the Department of Commerce to identify other potential sources of funding for this program. I am also committed to carefully reviewing a permanent source of funding for the program in my 2001-03 biennial budget. Through training, tax relief, venture capital, and technical assistance programs, small businesses and the Wisconsin economy will continue to thrive.

Sincerely,
TOMMY G. THOMPSON
Governor

May 18, 2000

To the Honorable Members of the Assembly:

I have approved **Assembly Bill 796** as 1999 Wisconsin Act 197 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Sections 4m, 10e, 10s, 13d, 13h, 13p, 13t, 21, 25g, 25r and 26m.

Assembly Bill 796 makes various changes to the governance of the State Fair Park and expands the board to 13 members, including 4 legislators. The bill also exempts the State Fair Park from various requirements associated with building program oversight and approval by the Governor, Legislature, State Building Commission and Department of Administration. Assembly Bill 796 authorizes the State Fair Park Board to establish a nonprofit corporation to raise funds and operate the fairgrounds under contract with the board. The bill also includes minority group and women hiring and

contracting goals associated with State Fair Park construction and renovation projects.

These changes anticipate the fundamental restructuring I and others envision for the State Fair Park. My administration is continuing to revise the State Fair Park's master plan to help fully realize the State Fair Park's potential. Redevelopment of the fairgrounds is not a discrete construction project. Implementation of this plan is expected to take several years and consist of multiple construction and renovation projects of various size and scope. That's why, the State Fair Park needs maximum flexibility in implementing the ultimate vision included in these redevelopment plans.

Section 10e establishes new membership for the State Fair Park Board. I am partially vetoing the requirement that a member be recommended by the Mayor of West Allis because it unnecessarily narrows the field of potential board members. However, as I review appointments to the board, I will consult with the Mayor of West Allis. The Mayor will have significant input on this appointment.

Sections 4m, 10s, 13d, 13h, 13t and 26m direct the Department of Administration, in consultation with the State Fair Park Board, to ensure that contractors, as a condition of receiving a contract, seek to achieve a project employment goal of 25 percent minority group members and 5 percent women. Identical numerical goals are set for the aggregate value of contracts awarded to minority and women-owned businesses for construction, professional services related to construction and facility development work. This section also requires that an independent person be hired by the Department of Administration to monitor compliance with, and efforts toward reaching, these goals.

I am vetoing sections 4m, 13d and 13t and partially vetoing sections 10s, 13h and 26m to remove requirements associated with goals for awarding the aggregate value of contracts to minority and women-owned businesses and for the hiring of an independent monitor because they unreasonably limit the ability of the department and the State Fair Park to initiate and complete various construction projects in a timely manner.

Sections 21 and 26m authorize the State Fair Park Board to permit a private person to construct a building, structure or facility in the State Fair Park under a lease agreement with the board. The board is required to develop policies that encourage that these private persons have a 25 percent employment and contracting goal for minority group members and businesses and a 5 percent employment and contracting goal for women and women-owned businesses. The board is also required to apply these contracting goals to contracts made under individual lease agreements and to the aggregate value of all contracts made by private persons in lease agreements with the board. I am partially vetoing these sections to remove the contracting goals for private persons because it sets a poor precedent for regulating actions by private business. While I concur that hiring goals are desirable for these lease agreements, additional restrictions

are unreasonable and place unnecessary limits on private business actions.

Sections 13p and 26m extend minority and women hiring and contracting goals included in the bill to projects below \$100,000. I am vetoing this provision because it unnecessarily increases administrative burdens associated with small construction and renovation projects. This veto will make minority and women hiring for State Fair Park consistent with state policy. From a legal perspective, State Fair Park is owned by the State and should be treated like any other State property. Under current law the Department of Administration must attempt to ensure that 5 percent of the total amount expended annually for State construction contracts be awarded to minority business. However, I request that the Department of Administration and the State Fair Park implement processes to ensure that there is maximum participation by minority and women employes and businesses in small construction projects.

Under current law, the Department of Administration must attempt to ensure that 5 percent of the total amount expended annually for state construction contracts be awarded to minority businesses. I request that the department and the State Fair Park make every effort to move beyond that goal in ensuring maximum participation in construction and related contracts by minority and women—owned businesses. While my vetoes retain a requirement that the Department of Administration report on the state's progress toward reaching the minority and women hiring goals in the bill, I also request that both agencies make complete and regular reports related to minority and women contracting associated with State Fair Park projects.

Sections 25g, 25r and 26m cross-reference the minority contracting requirements in the bill with Department of Commerce requirements associated with certifying and listing minority businesses. I am vetoing this provision because my partial vetoes in sections 13h and 21 make this cross-reference unnecessary.

Assembly Bill 796 increases the autonomy of the State Fair Park Board in response to recommendations of the State Fair Park Strategic Development Commission. These changes are aimed at assisting the State Fair Park with increasing private participation in redeveloping the park to better showcase Wisconsin agriculture and enhance the Park as a recreation and entertainment destination.

Sincerely,
TOMMY G. THOMPSON
Governor

May 17, 2000

To the Honorable Members of the Assembly:

I have approved **Assembly Bill 942** as 1999 Wisconsin Act 187 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Sections 1, 2, 3, 4, 5, and 6 (1).

Assembly Bill 942 contains three main provisions aimed at providing increased reimbursement to personal care

agencies and counties for personal care services provided under Medical Assistance (MA). Specifically, **Assembly Bill 942** increases the MA reimbursement rate for personal care services by \$3.25 per hour, to \$15.50 per hour; directs the Department of Health and Family Services (DHFS) to establish criteria to identify personal care shortage areas in the state and directs DHFS to provide enhanced reimbursement to personal care agencies in those counties; and directs DHFS to use base GPR to supplement Community Services Deficit Reduction Benefit (CSDRB) payments to counties. The bill also contains an obsolete provision to delay the effective date of Assembly Bill 456 from January 1, 2000 to January 1, 2001.

I am supportive of the rate increase, because it will help to ensure access to personal care, which has steadily grown in MA, and will become increasingly important as the population ages and as Family Care is implemented. The partial vetoes in this bill are meant to eliminate provisions for which no appropriation has been made and to eliminate the obsolete reference to Assembly Bill 456.

Sections 1 and 2 direct DHFS to use GPR to supplement federal reimbursement passed through to counties under the Community Services Deficit Reduction Benefit (CSDRB) Under this program, the state uses county expenditures to claim federal CSDRB payments at the MA federal match rate. The state passes the full amount of federal reimbursement for county expenditures in this program back to the counties. That reimbursement covers 60 percent of county expenditures. Sections 1 and 2 require DHFS to use GPR to increase the amount of expenditures covered to 75 percent. I am vetoing these sections because a 100 percent GPR enhancement of the CSDRB is excessive and does not allow the state to maximize federal reimbursement under MA. While DHFS can claim federal reimbursement for GPR used to increase personal care rates, federal regulations will not allow DHFS to claim MA federal reimbursement for GPR used to supplement CSDRB payments. Furthermore, personal care is just one of several services eligible for reimbursement under the CSDRB program. Providing a GPR supplement only for personal care services introduces an inconsistency in the CSDRB program and sets a costly precedent.

Sections 3 and 5 direct DHFS to submit rules that would establish criteria to identify "personal care shortage areas" and increase reimbursement for personal care services provided in those areas to 125 percent of the regular personal care reimbursement rate. While shortage areas for physicians and other licensed health care practitioners have proven to be an important tool in improving access to health care, I am skeptical of the feasibility of establishing shortage areas specific to personal care. Because many agencies serve multiple counties and experience frequent turnover among personal care workers and agencies, it will be very difficult to institute criteria based on the number of personal care workers in a given area. In addition, I am concerned that increased reimbursement in certain areas might create a perverse incentive for agencies to manipulate the size of their workforce to maintain shortage area status in order to be eligible for enhanced reimbursement. I am vetoing these sections to remove this requirement. Finally, section 6

establishes the appropriation changes for both the rate increase and personal care shortage areas. I am vetoing section 6 (1) to remove the appropriation for personal care shortage areas, since no funds have actually been appropriated for this purpose.

Section 4 delays the effective date of Assembly Bill 456 from January 1, 2000 to January 1, 2001. Assembly Bill 456 created an individual income tax deduction for certain health insurance premiums. Because Assembly Bill 456 passed in the Assembly but did not pass in the Senate, this provision is obsolete. Therefore, I am vetoing this section.

Assembly Bill 942 as vetoed will still provide a significant rate increase for personal care services provided to MA recipients in Wisconsin. A strong network of personal care agencies and workers is critical to the success of the state's new Family Care initiative and other efforts aimed at encouraging less costly community-based care. DHFS should monitor the effectiveness of the rate increase in creating stability in the personal care industry such that MA recipients have access to high quality care and interruptions in service, due to agency turnover, are limited. I strongly encourage personal care agencies to pass this rate increase on to their workers. A consistently cited problem in the industry is high turnover among personal care workers due to low wages. It is my hope that this rate increase will reduce that turnover and adequately compensate personal care workers for the difficult and very important service they provide to MA recipients in Wisconsin.

Sincerely, *TOMMY G. THOMPSON* Governor

GOVERNOR'S VETO MESSAGES

May 17, 2000

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 587** in its entirety. This bill expands the kinship care and long-term kinship care programs by adding second cousin to the definition of a kinship care relative.

I am vetoing **Assembly Bill 587** because no funding was provided to finance this expansion of the kinship care program. The Legislature should not expand a program without appropriating sufficient funding. If the demand for program funding exceeds a county or tribe's kinship care allocation, the county or tribe would be forced to use its own funds or put relatives on waiting lists. Additionally, expansion of kinship care eligibility to second cousins may set a precedent for further expansion of the program beyond the original intent of compensating relatives formerly under the AFDC Nonlegally Responsible Relative program.

Sincerely, *TOMMY G. THOMPSON* Governor

May 18, 2000

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 663** in its entirety. This bill allows the Wisconsin Department of Public Instruction to disclose pupil records received from school boards to appropriate state agencies and local education agencies as determined by the State Superintendent. The bill permits the Department to charge a fee to cover the direct costs of complying with data requests. It also allows individuals to view, but not obtain a copy of state assessment instruments.

I support the provisions of **Assembly Bill 663** that control access to state assessment instruments. Protecting the confidentiality and security of our state examinations is an important step in our drive for greater accountability in Wisconsin's schools. I intend to reintroduce this proposal for the improvement of public policy in my 2001-03 biennial budget.

I support the idea of clarifying the circumstances under which the State Superintendent can release pupil records. Impartial and fair evaluations of the state's educational programs require that researchers be able to examine confidential pupil records. As drafted, however, the bill would create two categories of investigators (State employes and all others) whose access to data would not be uniform. Researchers employed by State agencies could have access to the entire group of pupil records necessary to conduct a complete evaluation, while other researchers from private or non-public institutions and universities would only be allowed to review redacted portions of the total data set.

This bill, in its current form, therefore would have prevented researchers from private institutions of higher learning from assessing some of the claims regarding the Milwaukee Parental Choice Program (MPCP) made by researchers hired by the Department. Without equitable access, agencies could be accused of doing the State's business under the cover of darkness. As Wisconsin continues be a leader in educational innovations, we must be wary of any inference that these important evaluations are not available for public scrutiny. It is imperative the public, the legislature, and policy makers receive evaluations and research able to stand the test of intense and valid analysis.

As new alternatives to traditional education programs evolve, the Wisconsin Department of Public Instruction must be vigorous in its oversight of educational programs. This veto will not in any way hinder the ability of the State Superintendent to monitor or collect data on individual programs over which the department has statutory responsibility. Because the bill deals with the release of pupil records and not financial audits or other accountability requirements, this veto will also do nothing to impede the Department from approving schools to participate in the MPCP or removing them from the program should the need arise. I believe alternative exemptions to the confidentiality provisions currently in state law, such as those included in

federal statute, can be drafted to balance the privacy of students and educational researchers' legitimate needs to review pupil records without privileging particular categories of researchers. I encourage the Department to explore such alternatives.

> Respectfully submitted, TOMMY G. THOMPSON Governor

> > May 18, 2000

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 690** in its entirety. This bill allows the State Historical Society to establish a Heritage Trust Program, establishes definitions regarding the program and sets limits on grants made to the Wisconsin Trust for Historic Preservation and grants for preservation. The bill provides \$20 million in bonding revenue over ten years to the Society for this purpose and \$33,800 GPR in FY01 to administer the Heritage Trust Program. I have long supported the objective of preserving historic properties in Wisconsin, and I am proud of my track record on this issue. However, the state's bond counsel has raised serious questions regarding the constitutionality of the bill.

When I vetoed an identical provision from being included in Assembly Bill 133, the biennial budget bill, my veto message cited the fact that the proposal had not been included in the state's strategic plan for capital financing as the primary reason for the veto. **Assembly Bill 690** also did not undergo a systematic review of how the bonding authority authorized in the bill would fit into the state's comprehensive bonding plan. As a result, the state's general obligation bond counsel did not have an opportunity to comment on the bill prior to its passage.

The state's bond counsel has two concerns with the bill as drafted. First, the state's bond counsel cannot offer the unqualified opinion that the bill is constitutional. An unqualified opinion is required for the state to sell its bonds. Second, federal tax law sets strict limits on the investment of revenue from tax exempt bonds. As a result, the state may be required to issue taxable bonds, which would require the state to make significantly higher interest payments.

I believe that alternative options to using bond revenue to fund historic preservation can be developed that will balance the legitimate preservation needs of the state, local governments and nonprofit organizations with the need for the state to maintain sound constitutional and financial practices.

Attached is the state's bond counsel's opinion on the constitutionality of the bill.

Respectfully submitted, TOMMY G. THOMPSON Governor May 18, 2000

To the Honorable Members of the Assembly:

I am vetoing Assembly Bill 827 in its entirety.

Assembly Bill 827 requires a railroad train, operating in Wisconsin, to have two persons in the lead controlling locomotive cab at all times when the train or locomotive is in motion except for the purpose of switching. Under current law (1997 Wisconsin Act 42), all locomotives or trains operating in Wisconsin must have on board a federally certified railroad engineer and a qualified railroad trainperson. The Office of the Commissioner of Railroads may, by rule, waive this requirement if it will not endanger life or property. The requirement also does not apply if it is contrary to federal laws or regulations.

Wisconsin is the only state in the country with a law that requires two person crews. I signed 1997 Wisconsin Act 42 because I believe safety is paramount. The requirements under current law set the standard for the nation and balance safety concerns with the goal of increased railroad service and employment.

However, I am concerned that **Assembly Bill 827** has several shortcomings that may degrade safety and diminish opportunities for expanded railroad commerce and employment in the state. These concerns have been echoed in correspondence I have received from over two dozen local law enforcement officials, mayors, railroad shippers and railroads. Wisconsin has already set the standard on national railroad safety with the current requirement for two person train crews. There must be time to evaluate the impact of that requirement on safety while fostering passenger and freight rail service and employment expansions.

One key concern is the potential impact on METRA commuter rail service extensions into Wisconsin. METRA service includes considerable operating requirements and mechanical redundancies to ensure the highest possible level of safety. However, METRA has identified the provisions in this bill as too limiting on staff deployment and would considerably reduce, if not eliminate, the ability of METRA to provide cost-effective service in southern and southeastern Wisconsin.

Currently, METRA provides service to Kenosha under certain grandfather provisions included in the transfer of passenger rail authority to METRA. METRA is considering service extensions from Harvard, Illinois to Clinton, Wisconsin and from Kenosha to Racine and Milwaukee. These extensions will require approval by the Illinois Legislature based on recommendations from METRA. I want to ensure Wisconsin is in the best position possible to support METRA in its efforts to secure that approval. This expansion, and other future passenger rail service expansions, will provide Wisconsin citizens with greater transportation options and increase railroad employment.

I am very concerned that **Assembly Bill 827** will reduce railroad safety in the Fox Valley due to its impact on

"push-pull" trains. This type of train format utilizes locomotives at both ends of the train each staffed by one engineer. This approach has been approved by the Federal Railroad Administration for operation between Green Bay and Stevens Point, through Neenah, and has been in service since 1994. Use of this approach has reduced the switching operation in Neenah from one hour to 10 minutes. Considerable traffic delays and disruption of traffic patterns have been eliminated due to this change.

The bill would force Wisconsin Central to discontinue "push-pull" service on this line due to prohibitive costs. According to local elected and law enforcement officials and experts from the East Central Wisconsin Regional Planning Commission, use of a standard train set (a locomotive at one end of the train) will cause the return of traffic delays and backups that could lead to increased accidents and diminished traffic safety.

Supporters of this bill identified the size of train crews associated with freight rail service in northern Wisconsin as a reason for enacting these provisions. I have been assured by Wisconsin Central that it will begin to provide two person crews on that line within the next few weeks. I believe this action will address some of the concerns expressed by the railroad operating engineers union. In order to ensure implementation of this commitment, I will personally monitor the actions of Wisconsin Central on this issue in consultation with the Office of Commissioner of Railroads

While there are procedures under current law that would allow the provisions in **Assembly Bill 827** to be waived by the Office of the Commissioner of Rails. I do not believe it is sound government to adopt a requirement and then provide a series of waivers to address multiple conditional uses. Current law provides a safety standard that exceeds the rest of the country. I am requesting the Office of Commissioner of Railroads to monitor railroad safety issues over the next several months and provide a report to me by January 1, 2001. That report will serve as the basis for identifying any additional safety issues and the need for action in the next legislative session. I will also confer with the Office of Commissioner of Railroads, the United Transportation Union, the Brotherhood of Locomotive Engineers and the railroad industry in reviewing that report and providing input on the need for additional legislative action.

My goal is to ensure a thriving passenger and freight rail system in Wisconsin with a safety record that is second to none. That goal can be achieved by continuing to dialogue on infrastructure needs, service opportunities and safety issues. The measures outlined in this message will provide a framework for evaluating railroad safety issues in concert with capitalizing on Wisconsin's passenger and freight rail service opportunities.

Sincerely,
TOMMY G. THOMPSON
Governor

COMMUNICATIONS

State of Wisconsin
Office of the Secretary of State
Madison

To Whom It May Concern:

Acts, Joint Resolutions and Resolutions deposited in this office have been numbered and published as follows:

Bill Number	Act Number	Publication Date
Assembly Bill 471.	177	June 1, 2000
Assembly Bill 561.	178	June 1, 2000
Assembly Bill 137.	179	June 1, 2000
Assembly Bill 751.	180	June 1, 2000
Assembly Bill 700.		
Assembly Bill 742.		
Assembly Bill 968.		
Assembly Bill 967.		
Assembly Bill 969.		
Assembly Bill 942.		
Assembly Bill 402.		
Assembly Bill 504.		
Assembly Bill 538.		
Assembly Bill 778.		
Assembly Bill 841.	193	June 1, 2000
Assembly Bill 860.		
Assembly Bill 796.	197	June 2, 2000

Sincerely,

DOUGLAS LA FOLLETTE

Secretary of State

REFERRAL OF AGENCY REPORTS

State of Wisconsin
Department of Health and Family Services
Madison

May 12, 2000

To the Honorable, the Assembly:

The attached combined report is submitted to the Legislature pursuant to s. 46.27 (11g) and s. 46.277 (5m) of state statutes. State statutes require the Department of Health and Family Services to submit an annual report for the Community Options Program (COP) and for a combined report on the Home and Community Based Waivers (COP-W/CIP II). The attached report describes the persons served, program expenditures, and services delivered through the COP, COP-Waiver and CIP II programs in calendar year 1998.

The Community Options Program provides services to all target group populations. COP is closely coordinated with all of Wisconsin's Medicaid Home and Community Based Waivers. With the Department's oversight county agencies are able to ensure that a comprehensive and individualized

care plan is provided, while maintaining program flexibility and integrity and maximizing federal matching funds.

Sincerely,

JOE LEEAN

Secretary

Referred to committee on Health.

State of Wisconsin
Department of Administration
Madison

May 15, 2000

To the Honorable, the Legislature:

Included with this correspondence, I am submitting the report of the Department of Administration, Division of Gaming (Gaming), for the quarter ended March 31, 2000. As required by s. 562.02(1)(g), Wis. Stats., the attached materials contain pari-mutuel wagering and racing statistical information, as well as the revenues for the program areas of Racing, Charitable Gaming and Indian Gaming. Please note that Bingo revenues are now captured in a new appropriation (836) and therefore are shown on a separate chart from the rest of Charitable Gaming.

If you have any questions or comments regarding this report, please do not hesitate to contact me at (608) 270-2560.

Sincerely,
F. SCOTT SCEPANIAK
Administrator

Referred to committee on **State Affairs**.

AGENCY REPORTS

Southeast Wisconsin Professional Baseball Park District Milwaukee

May 18, 2000

To the Honorable, the Legislature:

Enclosed please find the Miller Park Monthly Progress Report for the month of April 2000 for your review and consideration. As the enclosed report indicates, Miller Park continues to develop with the District Board's objectives of building the premier baseball facility in the country; scheduled for play on Opening Day 2001; within budget; and with meaningful community participation.

As always, please feel free to contact me if you should have any questions or comments regarding the enclosed report.

Very truly yours, *MICHAEL R. DUCKETT, P.E., R.L.S.* Executive Director